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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/393,768	09/10/1999	EROL BASTURK	239603PL-011	3272
24739	7590	10/14/2004	EXAMINER	
CENTRAL COAST PATENT AGENCY			FERRIS, DERRICK W	
PO BOX 187				
AROMAS, CA 95004			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/393,768	BASTURK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Derrick W. Ferris	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,9-11,15-18,21,23 and 25-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,9-11,15-18,21,23 and 25-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 September 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/18/2004 has been entered.

### ***Response to Amendment***

2. **Claims 1-4, 9-11, 15-18, 21, 23, and 25-34** as amended are still in consideration for this application. Applicant has amended claims 1, 9, 15, 18, 21, 23, and 25.

3. Examiner does **not withdraw** the obviousness rejection to *Hsu* in view of *Viswanathan* and in further view of *Wilford* for Office action filed **03/22/04**. Careful consideration was placed in addressing applicant's arguments in the response filed **06/18/04**. Applicant raises the following three issues: claim interpretation, index number with respect to a direct graph, and use of a randomizing tag. Claims limitations were given a broad but reasonable interpretation in view of applicant's specification. Examiner would like to further point out that applicant's specification lacks further context or concrete examples such that further interpretation may differ between the examiner and applicant. However, with respect to the limitations, the examiner construes a directed-graph index to mean an element identifying a directed graph in view of applicant's specification, see e.g., page 6, first paragraph of applicant's specification. As such, the limitation is met since *Hsu* uses a directed graph where identifying elements are used to reference the directed graph (i.e., as packets are routing using a directed graph then by definition

there is some information used in the packet to index the directed graph which meets the limitation). With respect to a randomizing tag, applicant argues the use of the randomizing tag which is not further recited in the claims. In particular, that that the use of a randomizing function and mechanism allows one to vary paths in the network in order to fully utilize the network resources (see remarks in first paragraph on page 9). To help expedite prosecution, the examiner will further address the above argument even though the limitation is not further recited in the claim. The bias value is a function of the flow priority, bandwidth demand, link bandwidth, and maximum available link bandwidth, see e.g., column 1, lines 56-59. Also see column 8, lines 13-35. Thus since a decision is made based on these *random* factors the route selected is random which means that the label selected is also random (i.e., all options are “nearly likely”). Examiner assumes that the BCRS is performed in a distributed manner, see e.g., column 3, lines 50-57, at each router such that the tag or label is replaced locally.

Examiner has made the following rejection non-final to give applicant a further opportunity to amend the claims to further recite the use of a randomizing function.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-4, 9-11, 15-18, 21, 23, and 25-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,363,319 B1 to *Hsu* in view of “Evolution of Multiprotocol

Label Switching" to *Viswanthan et al.* ("Viswanathan") and in further view of U.S. Patent No. 6,512,766 B2 to *Wilford*.

As to **claims 1, 18, 21 and 23**, *Hsu* discloses a method and apparatus for selecting a route for a flow from a plurality of network paths connecting a source to a destination [Abstract]. More specifically, *Hsu* discloses constraint-based route selection using biased cost. Shown in figure 1a are routers using a centralized biased cost route selector (BCRS) and shown in figure 2 are routers using a distributed biased cost route selector (BCRS) using label edge routers (LERs) [column 3, lines 32-38]. With respect to a first and second node, examiner notes figure 3 illustrating a directed graph index [column 5, lines 25-67; column 6, lines 1-8]. Examiner notes that MPLS is known in the art for packet forwarding [column 1, lines 15-16]. *Hsu* also discloses using a loop free algorithm (i.e., acyclic as defined by applicant on page 5, lines 3-4).

The *Hsu* reference is generally silent or deficient to the limitation of replacing the tag (i.e., MPLS label) of the packet with the updated tag to give an updated packet. Examiner notes that it would have been obvious to a skilled artisan to replace the tag (i.e., MPLS label) when routing/switching the packet in the MPLS network. Examiner notes that further support or motivation comes from *Viswanathan* which discloses that a packet is "labeled" by either encoding the label in the data link layer or network layer header, or encapsulating the packet with a header specifically for MPLS [page 167, bottom right-hand column]. Thus *Viswanathan* cures the above-cited deficiency by disclosing replacing the tag of the packet with an updated tag for MPLS. The examiner proposes to modify the *Hsu* reference to include updating the MPLS tag since by updating the tag the

router is able to route a packet dynamically. *Hsu* provides such a motivation found at column 2, lines 50-57. Further, examiner notes a reasonable expectation level of success since each router checks the routing table such that if packet's label is changed somewhere in the network the next router will still be able to handle the packet with the updated MPLS tag.

In addition, *Hsu* and *Viswanathan* may be silent or deficient to using a normalizing function to the tag where the normalizing function enhances network performance by reducing the number of bits involved in accessing the routing table bias table. Examiner notes that it would have been obvious to one skilled in the art prior to applicant's invention to use a normalizing function to the tag where the normalizing function enhances network performance by reducing the number of bits involved in accessing the routing table bias table. In particular, examiner purposes modifying the *Hsu* reference to include a hash of the MPLS label/tag (i.e., a normalized label/tag) instead of using the actual label/tag. One skilled in the art would have been motivated to reduce the number of bits in a tag to both save space as well as speed up computations since less bits are used to represent the tag via a hash key. In addition, one skilled in the art would be motivated to use a hashing function to reduce/normalize the number of bits involved in accessing the routing table bias table since a hash reduces the overall number of bits needed to lookup a route in a routing table. As such, *Wilford* cures the above-cited deficiency by disclosing in figure 2, step 226 that the routing table lookup involves generating a hash key (i.e., normalized Tag  $T_N$ ) from the routing information (i.e., Tag  $T$ ) and using the hash key (i.e., normalized Tag  $T_N$ ) to index to routing table lookups

[column 5, lines 44-50]. Thus *Wilford* discloses using a hash key where by definition a hash (coding) reduces the number of bits involved in access routing information.

Examiner notes a further reasonable expectation level of success since *Hsu* teaches using a direct graph with a label such that any label (either the actual label or a hash) would work without departing from the spirit and scope of the invention.

As to **claim 2**, both references disclose transporting the packet to a destination node, using a reasonable but broad interpretation, where applicant defines destination node as either a terminal or a router on page 8, lines 10-11 of applicant's specification. For example, as shown in figure 2 of *Viswanathan* and on page 168 bottom right-hand column.

As to **claim 3**, *Hsu* discloses routing an MPLS packet in general over a directed graph network. Again, *Hsu* is deficient or silent to how a label is changed at an intermediate node. Examiner notes that it would have been obvious to a skilled artisan prior to applicant's invention to change a label at an intermediate node. Again, *Viswanathan* provides additional support by disclosing that a label can be swapped at intermediate (i.e., subsequent) nodes [page 167, bottom right-hand column].

As to **claim 4**, see the same reasoning behind the rejection to claim 2.

As to **claim 33**, see the same reasoning behind the rejection for claim 1 (and as shown in figure 3 of *Hsu*).

As to **claims 9 and 25**, both reference disclose using an updating function throughout the network.

Art Unit: 2663

As to **claims 10-11 and 26-27**, examiner notes using a reasonable but broad interpretation of “randomizing”, the limitation is also by *Hsu*. *Hsu* teaches a constraint-based route selection technique that supports establishing Multi-protocol Label Switching (MPLS) label switched paths through explicit routing [column 2, lines 66-67; column 3, lines 1-2]. Examiner notes that although explicit routing is disclosed, hop-by-hop routing is further supported [column 6, lines 37-44]. In particular, *Hsu* discloses a randomizing function with respect to load balancing [column 12, lines 31-40; column 13, lines 4-22]. Specifically that the multi-class technique attempts to offer a greater diversification on the multi-paths [column 13, lines 20-22].

As to **claim 28**, see the rejection for claim 9.

As to **claims 29-30**, see the rejection for claims 10-11.

As to **claims 15-16 and 31-32**, *Viswanathan* discloses the general concept of using a general packet between source and destination which may occur between one or more intermediate nodes. *Hsu* provides additional support by disclosing a flow of a packet (i.e. FIFO packet flow).

As to **claims 17 and 34**, *Viswanathan* discloses matching variable bits for a label using a broad but reasonable interpretation of hash.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

Art Unit: 2663

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick W. Ferris  
Examiner  
Art Unit 2663

DWF

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600 10/12/04